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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/961,345	09/25/2001	Tetsuo Nakata	1538.1017	5887

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EXAMINER

MCCLELLAN, JAMES S

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/961,345

Applicant(s)

NAKATA ET AL.

Examiner

James S McClellan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 20 September 2004.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-50 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-50 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Request for Continued Examination

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on September 20, 2004 has been entered.

Amendment

2. Applicant's submittal of an amendment was entered on August 16, 2004, wherein:

claims 1-50 are pending;

claims 1, 2, 5, 6, 9-13, 14, 15, 17-19, 22, 23, 26-30, 31, 32, 34, 35, 38, 39, and 42-

47 have been amended; and

claim 50 has been added.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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4. Claims 1-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. US 2002/0107820 (hereinafter "Huxter") in view of U.S. Patent Application No. US 2002/0072945 (hereinafter "Yang").

Regarding **claim 1**, Huxter discloses a method for processing physical distribution information, said method comprising the steps of: receiving and registering schedule information regarding a form of receiving of a package addressed to a member from the member (see page 5, paragraph #106); when a shipment request is received from a sender of a package, determining a delivery form with reference to at least the receiver's schedule information registered in said receiving and registering step when said receiver is a member (see page 5, paragraph #116); and when said delivery form determined in said determining step involves a movement of said package, generating delivery request information for a distributor in accordance with said delivery form (see page 5, paragraph #116); [**claim 2**] when said delivery form determined in said determining step involves a movement of the package, registering scheduled delivery information in said receiver's schedule information (see page 5, paragraph #116); [**claim 3**] sending said distributor information regarding said delivery form determined in said determining step before starting to deliver said package (see page 5, paragraph #11); [**claim 4**] receiving a delivery completion notice including receiving status data from said distributor (see page 2, paragraph #17); [**claim 5**] giving a predetermined point to said receiver when said receiving status data included in said delivery completion notice indicates the delivery has been performed by following a delivery schedule specified in said delivery form (see page 2, paragraph #17); [**claim 6**] giving a predetermined point to said receiver when said delivery form determined in said determining step indicates that delivery to a home of said receiver of said package and said

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receiving status data included in said delivery completion notice indicates that receiving has been performed by following a delivery schedule specified in said delivery form (see page 16, paragraph #255); **[claim 7]** receiving and registering information regarding a fixed delivery charge from said distributor after said package is received by said distributor (see page 15, paragraphs #245-246); **[claim 8]** there is a case where said delivery form is determined as undeliverable in said determining step (see page 16, paragraph #256); **[claim 9]** including information regarding a determined as undeliverable in said sending said sender a deliverable date when said delivery determining step (it is inherent that the e-tailer will be notified when a package is undeliverable); **[claim 10]** giving a predetermined point to said receiver when said delivery determined as forwarding or keeping in said determining step (see page 16, paragraph #255); **[claim 11]** said generating step, when said delivery form is determined as forwarding or keeping in said determining step, delivery request information addressed to said distributor is generated by using forwarding, destination information or keeping place information registered for said receiver in advance (see page 16, paragraph #255); **[claim 12]** receiving and registering information of specified member from said member, and wherein, in said determining step, when said receiver is not available for receiving and said specified member is registered for said receiver, said schedule information for said specified member is referenced (see page 16, paragraph #255); **[claim 13]** when a delivery request to a non-member is received from a sender of a package, registering information of said non-member included in said delivery request as provisional member information; sending a member registration request to said non-member; and sending information registered as said provisional member information to said non-member when membership registration is requested from said nonmember (see page 7,

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paragraph #148); **[claim 14]** wherein in said receiving and registering step, schedule information regarding a form of receiving said package addressed to said member is received as a predetermined template selection instruction from said member (see page 5, paragraph #106); **[claim 15]** wherein said determining step comprises a step of sending a schedule input request to said receiver when said receiver's schedule information indicates it is not fixed (see page 16, paragraph #255); and **[claim 16]** wherein said determining step comprises a step of sending said sender a notice indicating scheduling in progress (see page 5, paragraph 106).

Regarding **claim 17**, Huxter discloses A method for processing physical distribution request, said method comprising the steps of: sending a central server (1000) a delivery request of a package, said delivery request specifying at least a receiver (400); and receiving a result notice of delivery scheduling including a case where it is indicated that said package is undeliverable, from said central server before starting to deliver said package (see page 16, paragraphs #255-256).

Huxter discloses a program, apparatus, and method as set forth in **claims 18-50**. Claims 18-50 are similar to previously addressed claims 1-16.

Regarding claims 1, 17, 18, 34, and 50, Huxter fails to disclose the schedule information comprising at least one of the forms of receiving the package addressed to the member for each of a plurality of days within a predetermined period.

Yang teaches method of package delivery and pickup including schedule information comprising at least one of the forms of receiving the package addressed to the member for each of a plurality of days within a predetermined period (see page 4, paragraphs 0060-0062).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Huxter with schedule information related to a plurality of days as taught by Yang, because delivering items when the receiver is likely available to accept the items increases the efficiency of the delivery service, wherein decreasing the expense related to unsuccessful delivery attempts.

Response to Arguments

5. Applicant's arguments filed August 16, 2004 have been fully considered but they are not persuasive.

On page 12, third paragraph, Applicant request withdrawal of the objection to claim 32 based on the most recent amendment. The objection of claim 32 is withdrawn.

On page 13, third full paragraph, Applicant argues that Huxter fails to disclose "a time range that the receiver is unavailable for receiving packages." Applicant is arguing the references individually instead of arguing the combination made under 35 U.S.C. § 103. Yang, not Huxter, is relied upon to disclose delivery time.

On page 14, Applicant argues that Yang fails to disclose "receiving schedule information, regarding forms of receiving a package addressed to a customer member, from a terminal of the customer." The Examiner respectfully disagrees. Huxter clearly allows a user to schedule delivery from a computer terminal (see paragraph 0182-183).

The Examiner notes that Applicant's amendment to replace "if" with "when" in various claims fails to change the Examiner's position that the limitations following if/when is a conditional limitation. According to *Merriam Webster's Collegiate Dictionary*, tenth edition, "when" is defined as "in the event that: IF".

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jim McClellan whose telephone number is (703) 305-0212. The examiner can normally be reached on Monday-Friday from 9:30 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski, can be reached at (703) 308-5183.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

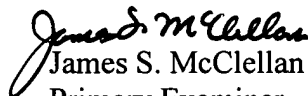
Any response to this action should be mailed to:

Commissioner of Patent and Trademarks
Washington D.C. 20231

or faxed to:

(703) 872-9306 (Official communications) or
(703) 746-3516 (Informal/Draft communications).

Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,
Arlington, VA, 7th floor receptionist.


James S. McClellan
Primary Examiner
A.U. 3627

jsm
December 10, 2004